

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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| MISSOURI-AMERICAN WATER COMPANY |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No.: |
| |) | |
| CITY OF SUNSET HILLS, MISSOURI, |) | |
| a political subdivision of the State of Missouri; |) | |
| CITY OF SUNSET HILLS BOARD OF |) | |
| ALDERMEN; and BRYSON E. BAKER, P.E., |) | |
| in his official capacity as Director of Public Works |) | |
| for the City of Sunset Hills, Missouri, |) | |
| |) | |
| Defendants. |) | |

NOTICE OF REMOVAL

COME NOW Defendants, City of Sunset Hills, Missouri, City of Sunset Hills Board of Aldermen, and Bryson E. Baker (collectively, “Defendants”), by and through counsel, and pursuant to 28 U.S.C. §§ 1331, 1367(a), 1441, and 1446, hereby file this Notice of Removal of the above-entitled action to the United States District Court for the Eastern District of Missouri, Eastern Division, the grounds for which Defendants state are as follows:

1. The above-entitled action is a civil action currently pending in the Circuit Court of the County of St. Louis, Missouri, Case Number 22SL-CC02451, wherein Plaintiff, Missouri-American Water Company (“Plaintiff”), seeks relief in the form of declaratory judgment, injunctive relief, review, and damages.
2. In Count IV of its Petition for Declaratory Judgment, Injunctive Relief, Review, and Damages (“Petition”), Plaintiff purports to assert a cause of action pursuant to 42 U.S.C. § 1983 and pertaining to the Fifth and Fourteenth Amendments of the United States

Constitution, as well as relief under 42 U.S.C. § 1988(b). *See Exhibit A*, Petition, Count IV.

3. United States District Courts have original jurisdiction over claims or rights “arising under the Constitution, treaties, or laws of the United States.” 28 U.S.C. § 1441(c)(1)(A); *see* 28 U.S.C. 1331 (federal question jurisdiction).
4. Pursuant to the well-pleaded Petition rule, federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded petition. *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987).
5. “[T]he presence of even one federal claim gives the defendant the right to remove the entire case to federal court.” *Williams v. Ragnone*, 147 F.3d 700, 702 (8th Cir. 1998) (quoting *Gaming Corp. of Am. v. Dorsey & Whitney*, 88 F.3d 536, 542 (8th Cir. 1996)).
6. This Court has original jurisdiction over this action insofar as Plaintiff alleges violations of its rights actionable pursuant to 42 U.S.C. § 1983 and the United States Constitution and relief under 42 U.S.C. § 1988.
7. In any civil action over which the United States District Courts have original jurisdiction, the United States District Court “shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.” 28 U.S.C. § 1367(a).
8. The United States District Court may exercise jurisdiction over state law claims that may be viewed as part of the same case if they “derive from a common nucleus of operative fact” as the federal claim(s). *Mine Workers v. Gibbs*, 383 U.S. 715 (1966).

9. In addition to the cause of action brought pursuant to 42 U.S.C. § 1983 and the relief sought under 42 U.S.C. § 1988, the Petition also purports to assert causes of action pursuant to R.S.Mo. §§ 89.010 to 89.140, R.S.Mo. § 89.380, R.S.Mo. § 610.020, and a state law based Petition for Mandamus, *See Ex. A*, Counts I, II, and III.
10. However, the state law causes of action identified in the Petition derive from the same common nucleus of operative fact as Plaintiff's purported cause of action under 42 U.S.C. § 1983 and the relief sought under 42 U.S.C. § 1988, namely Plaintiff's efforts to obtain a building permit to construct a new water tower located at 11832 Sappington Barracks Road. *See generally, Ex. A.*
11. This Notice of Removal is properly directed to this Court pursuant to 28 U.S.C. § 1446(a) because this is the United States District Court embracing the Circuit Court of the County of St. Louis, Missouri, where the state court action is currently pending.
12. In accordance with 28 U.S.C. 1446(d), Defendants have filed written notice of this removal with the Clerk of the Circuit Court of the County of St. Louis, Missouri; a copy of this Notice of Removal and the written notice of the same are also being served upon Plaintiff.
13. Defendants were each served with summons and a copy of the Petition in the underlying state court action on May 24, 2022, the Petition being the first pleading raising the federal cause of action and relief sought described herein. *See Exhibit B*, File-Stamped Return Summons for Defendants.
14. In accordance with 28 U.S.C. 1446(b), Defendants filed this Notice of Removal within thirty (30) days of receipt of the initial pleading setting forth the claim for relief upon which this action is based.

15. The undersigned, as counsel for Defendants, hereby affixes his signature as agent of Defendants and represents to this Court that all Defendants consent to the removal of this action pursuant to 28 U.S.C. 1446(b)(2)(A); the undersigned further represents that there are no other defendants named in this action.

WHEREFORE, Defendants, City of Sunset Hills, Missouri, City of Sunset Hills Board of Aldermen, and Bryson E. Baker, pray that this Court accept jurisdiction of this action and for any such other and further relief this Court deems just and proper under the circumstances.

PITZER SNODGRASS, P.C.

/s/ Peter J. Dunne

Peter J. Dunne, #31482 MO
Maxwell L. Knudsen, #72886 MO
100 South Fourth Street, Suite 400
St. Louis, Missouri 63102
(314) 421-5545
Email: Dunne@pspclaw.com
Email: Knudsen@pspclaw.com
Attorneys for Defendants

I hereby certify that a copy of the foregoing filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following or U.S. mail for parties not registered with CM/ECF, on this 22nd day of June, 2022:

John H. Kilper
Connor J. Lynde
Hamilton Weber LLC
200 N. Third Street
St. Charles, MO 63301
636-947-4700
FAX 636-947-1743
jkilper@hamiltonweber.com
clynde@hamiltonweber.com
*Attorneys for Plaintiff Missouri-American
Water Company*

/s/ Peter J. Dunne
